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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003090

SIPDIS

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TAGS: [PREL](#) [PGOV](#) [KDEM](#) [IZ](#)

SUBJECT: CONSTITUTION COMMITTEE DEPUTY CHAIRMEN TELL  
AMBASSADOR THE NEGOTIATING IS ONLY BEGINNING

REF: BAGHDAD 3086

Classified By: Political Counselor Robert Ford.  
Reasons 1.4 (B) and (D)

1. (C) SUMMARY: Constitution Committee Deputy Chairmen Fouad Ma'asum and Adnan al-Janabi told the Ambassador at a July 25 luncheon that they were committed to the August 15 deadline. Janabi confirmed that Sunni Arab representatives will rejoin the meetings. Both men said negotiations at the moment are mired in distrust and stalled because of exaggerated opening positions. They sought continued U.S. pressure to help convene a summit of Iraqi political leaders by early August that would produce historic but hard compromises. Weighing in on the critical issue of federalism, Ma'asum said the Kurds were committed only to decentralized authority for Kurdistan. Janabi said he believed further regional entity formation would need strict central government regulation and ought to be ruled out entirely in the first years of the constitution's effectiveness. Both men assured the Ambassador that they were committed to improving provisions on women's rights and moderating the role of Islam in the constitution, but they warned that completely secular text would not be possible.  
END SUMMARY.

2. (C) The Ambassador hosted Constitution Committee Deputy Chairmen Fouad Ma'asum and Adnan al-Janabi at a luncheon July 25. The two chairmen followed the meeting with a session with visiting Congressman Chris Shays (R-CT). This cable describes the key points from both meetings, most of which were raised with the Ambassador and repeated separately to the congressman.

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THE TIMELINE AND STATUS OF TALKS  
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3. (C) The deputy chairmen expressed the following:

-- COMMITTED TO AUGUST 15: Ma'asum and Janabi both said they believed they were on track to meet the August 15 deadline. They said they were focused on passing August 1, the last day in which they are allowed to request an extension. After that point, Janabi acknowledged, the National Assembly could still attempt to amend the TAL, but such an effort would be "damaging."

-- SUNNIS ARE BACK ON BOARD: Janabi said Sunni Arab representatives had agreed to rejoin the talks (see ref for more info). Now the Sunni Arab team is working with Iraqi government officials to put their own representatives on what will be an "independent" investigative team led by the Iraqi judiciary. He said National Dialogue Council leader Saleh Mutlak is still pushing for a clearer international component to the inquiry. Janabi praised TNA Speaker Hachim al-Hasani's role in working with the Sunni Arabs to meet their security needs and in helping draft a statement announcing their return. Hasani had agreed to put aside funds and make arrangements so that all added Sunni Arab representatives receive the benefits of full TNA members, Janabi said. Janabi also said contacts with Masood Barzani were helping keep the Sunni Arabs engaged.

-- DRAFT TEXT IS A SHIA PROPOSAL: Both of the men said the draft constitution text now under discussion reflected Chairman Humam al-Hamudi's proposals, not theirs. Despite that fact, they said they had accepted the document as a starting point for discussion. It will be amended substantially, they predicted. They hoped to reorganize their staff in the coming days so that the entire "presidency council" of the constitution committee can work as one to issue unified draft texts. At present, they admitted, each member of the triumvirate is relying on his own staffers.

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THE ROLE OF U.S. PRESSURE  
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14. (C) The deputy chairmen called for the following:

-- SEEKING AN INTERNAL SUMMIT: Every side is exaggerating its demands at this point to strengthen its position before the tough negotiations ahead, both agreed. Ma'asum went so far as to admit with a laugh, "There are exaggerated opening positions from the Shia, Sunni Arabs -- and the Kurds." Janabi subsequently told Congressman Shays, "We are very good bazaar hagglers." Both men told the Ambassador that they supported a summit in early August that brings together top Iraqi leaders. They singled out Abd al-Aziz al-Hakim, Masood Barzani, and all members of the Presidency Council as key attendees. They also suggested inviting voices the Sunni Arab community respects like Ayad Allawi and TNA Speaker Hachim al-Hasani. They sought U.S. pressure on all sides to ensure this summit comes off, and Ambassador Khalilzad agreed to keep applying it.

-- SEEKING U.S. COMMITMENT: Both men said they needed and appreciated the U.S. commitment to Iraq security and democratic development. Ambassador Khalilzad reaffirmed that commitment and made clear that the U.S. was here at Iraqi request. Ambassador Khalilzad expressed confidence that the Iraqis would succeed and prove to be prosperous, successful and important players in the region. Ma'asum later told Congressman Shays that the constitution drafting process would have taken three to four years without U.S. pressure like that now being applied.

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TWO VIEWS ON FEDERALISM  
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15. (C) They expressed the following:

-- MA'ASUM LOOKING ONLY AT KURDISTAN: Ma'asum showed no commitment to seeing federalism implemented anywhere but Kurdistan. He said the Kurds would even support the existence of Kurdistan as Iraq's only regional entity if need be. He would have no problem if the remainder of Iraq even were to act as a unified regional entity. He did note, however, that the principle of a federal structure for all of Iraq had been atop the agenda since the Iraqi opposition's days of exile and resistance.

-- JANABI LOOKING TO REGULATE FEDERALISM: Janabi, saying he was speaking on behalf of Allawi's Iraqiyya List, made no objection to the principle of decentralization in Kurdistan. He even opened the door to the formation of regional entities throughout the rest of Iraq but said he would push for the National Assembly to have the power to regulate that process. He also supported a "moratorium" on the formation of regional entities for a "set period of time." Janabi subsequently explained his rationale to Congressman Shays as follows, "Under the present circumstances and with Iranian pressure, (a premature federal system) could cause us to split up. Sunni Arab areas do not have the resources to handle that."

-- SEEKING ARTICLE 58 ON KIRKUK: Ma'asum told the Ambassador that the Kurds would be satisfied with maintaining the approach to Kirkuk formulated in TAL Article 58. Ma'asum later told Congressman Shays, "If Kirkuk wants to join Kurdistan it can join it, and if it wants to remain independent it can stay independent."

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ISLAM AND WOMEN'S RIGHTS  
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16. (C) The deputy chairmen expressed the following:

-- MODERATING ISLAM'S INFLUENCE: Islamism is going to influence the constitution, both Janabi and Ma'asum agreed, but they were both committed to moderating its influence. "We want a secular constitution, but we are dealing with a wave of Islamism," Janabi said. Janabi said he was confident that both SCIRI leader Abd al-Aziz al-Hakim and Ayatollah Sistani were committed to moderate Islamic language in the document. Janabi said he specifically wanted to find ways to draw Sunni Arab leaders into the process while reducing the role of clerics. Ma'asum subsequently told Congressman Shays, "I'm secular, but in Iraq it's very hard to shelve religion and put in a system like Turkey's. On the other hand we cannot allow this system to become like Iran's."

-- A STEP BACKWARD ON WOMEN'S RIGHTS: The Ambassador

commented that our read of the Shia text raised questions about the protections of women's rights. Ma'asum said the draft document under discussion had unquestionably taken a step backwards on women's rights. He expected to be able to rectify part of that problem and said no sides' object to allowing women a prominent role in political and social life. Both men said they were certain the constitution would reinstate language that guarantees women one quarter of the National Assembly seats. But they expected that such a provision would only hold for the next two election cycles before being dropped. Ma'asum lamented that equal rights for women and Sharia law are fundamentally opposed. Inheritance rules under Sharia, for example, allot women one-third of an estate and men two-thirds, he said. To guarantee equal rights for women in all areas would be to annul portions of the Sharia, and this Islamists cannot accept, he said. The Ambassador highlighted how important Iraqi women would be to the reconstruction of Iraq, and he urged that they ensure strong protections in the final text.

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OTHER CONSTITUTIONAL ISSUES AND ANXIETIES  
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17. (C) The deputy chairmen expressed the following:

-- CONTROVERSY OVER IRAQ'S "PERSIANS": Ma'asum was incredulous over the Shia call for the constitution to recognize Iraq's "Persian" minority. Ma'asum said he had asked his negotiating partners, "Whom are you referring to?" They pointed to Deputy Assembly Speaker Husayn Shahrastani, who is of Iranian descent, as an example. Ma'asum said the point was bizarre. First, he said, Shahrastani identifies as an Arab, not a Persian. Second, not all of the peoples of the area now known as Iran were really Persians in the sense the constitution would be implying. Janabi expressed unease with the entire effort to list Iraq's minorities in the constitution. He said, "I don't think it should go into too much detail on the fragmentation of Iraq."

-- DISTRUST AND AMBIVALENCE ON DEMOCRACY: Ma'asum described the short period ahead as "critical." He added, "If we had mutual confidence we could bridge any of these issues. Trust can come from practical steps. But our partners fear that we will secede. There are countries encouraging that fear. Fears rule Iraq. A series of fears." Both men voiced ambivalence about Iraq's democratic experiment. Ma'asum said, "We see democracy as the sole solution to our problems, but some see it as a lethal virus. We have democratic ambitions but no democratic customs." Laughing, he confessed, "We opposed the monarchy and now we wish we had it. We opposed Abd al-Kareem Qasem and now we wish we had him." Janabi said, "We are going from one crisis to another. That seems to be what democracy is about." The Ambassador reminded them that crafting the American constitution and system was often hard. If Iraqi leaders demonstrate goodwill and flexibility, they can be successful.

18. (U) REO HILLA, REO BASRA, REO MOSUL, and REO KIRKUK, minimize considered.

Khalilzad